

**3 Pages**

WILKE, FLEURY, HOFFELT, GOULD & BIRNEY, LLP  
DANIEL L. EGAN (SBN 142631)  
MEGAN A. LEWIS (SBN 221263)  
STEVEN J. WILLIAMSON (SBN 238869)  
400 Capitol Mall  
Twenty-Second Floor  
Sacramento, CA 95814  
Telephone: (916) 441-2430  
Facsimile: (916) 442-6664

Attorneys for Creditor  
TRAYNOR MARINA INVESTMENTS, LLC

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

ROBERT A. COOK,  
Debtor.

Case No.: 11-39335-C-11

WFH-3

Date: September 21, 2011  
Time: 10:00 a.m.  
Dept: C

**APPLICATION FOR RULE 2004 EXAMINATION OF FIRST BANK**

Traynor Marina Investments, LLC, Creditor, in this case ("Traynor") submits this application for an order authorizing an examination of FIRST BANK ("Bank") pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure.

**I.**  
**FACTS**

Traynor is a judgment lien creditor of Debtor asserting a claim in the approximate amount of \$1.1 million. Traynor has been in the process of attempting to collect its judgment for almost one year. Traynor had obtained appointment of a receiver over Debtor's assets, and had obtained charging orders against Debtor's partnerships and limited liability companies. Traynor had also filed a motion with the Sacramento Superior Court seeking an order authorizing the foreclosure of Traynor's judgment lien on certain of Debtor's partnership and limited liability company

1 interests. Debtor commenced this Chapter 11 case immediately before the motion to forestall  
2 Traynor's foreclosure efforts.

3  
4 **II.**  
**DISCUSSION**

5 Traynor seeks an order authorizing Traynor to subpoena documents from Bank to aid  
6 Traynor's investigation of Debtor's assets and to aid in locating any potential missing funds.  
7 Rule 2004 of the Federal Rules of Bankruptcy Procedure provides as follows:

8 Rule 2004. Examination

9 (a) Examination on motion. On motion of any party in interest, the  
court may order the examination of any entity.

10 (b) Scope of examination. The examination of an entity under this  
11 rule or of the debtor under § 343 of the Code may relate only to the  
12 acts, conduct, or property or to the liabilities and financial condition  
of the debtor, or to any matter which may affect the administration  
13 of the debtor's estate, or to the debtor's right to a discharge. In a  
family farmer's debt adjustment case under chapter 12, an  
14 individual's debt adjustment case under chapter 13, or a  
reorganization case under chapter 11 of the Code, other than for the  
15 reorganization of a railroad, the examination may also relate to the  
operation of any business and the desirability of its continuance, the  
16 source of any money or property acquired or to be acquired by the  
debtor for purposes of consummating a plan and the consideration  
17 given or offered therefor, and any other matter relevant to the case  
or to the formulation of a plan.

18 (c) Compelling attendance and production of documents. The  
attendance of an entity for examination and for the production of  
19 documents, whether the examination is to be conducted within or  
without the district in which the case is pending, may be compelled  
20 as provided in Rule 9016 for the attendance of a witness at a  
hearing or trial. As an officer of the court, an attorney may issue  
21 and sign a subpoena on behalf of the court for the district in which  
the examination is to be held if the attorney is admitted to practice  
22 in that court or in the court in which the case is pending.

23  
24 (d) Time and place of examination of debtor. The court may for  
cause shown and on terms as it may impose order the debtor to be  
25 examined under this rule at any time or place it designates, whether  
within or without the district wherein the case is pending.

26 (e) Mileage. An entity other than a debtor shall not be required to  
27 attend as a witness unless lawful mileage and witness fee for one  
day's attendance shall be first tendered. If the debtor resides more  
28 than 100 miles from the place of examination when required to  
appear for an examination under this rule, the mileage allowed by

1 law to a witness shall be tendered for any distance more than 100  
2 miles from the debtor's residence at the date of the filing of the first  
3 petition commencing a case under the Code or the residence at the  
time the debtor is required to appear for the examination, whichever  
is the lesser.

4 USCS Bankruptcy R 2004


5 Traynor requests an order authorizing Traynor to subpoena records from First Bank  
6 pursuant to Rule 2004.

7 **III.**  
8 **PRAYER FOR RELIEF**

9 Wherefore, Traynor requests an order authorizing Traynor to subpoena all records from  
10 First Bank.

11 DATED: September 7, 2011

12 WILKE, FLEURY, HOFFELT,  
13 GOULD & BIRNEY, LLP

14 By:   
15 DANIEL L. EGAN  
16 Attorneys for Creditor  
17 TRAYNOR MARINA INVESTMENTS,  
18 LLC  
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